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EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 24th February, 1978.

BILL No. 144 OF 1977

A Bill to provide for protecting the prisoners from third-degree methods.

BE it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Protection of Prisoners from Third-degree Methods Act, 1977.

Short
title and
commen-
cement,

(2) It shall come into force at once.

2. The use of third-degree methods, for extorting confessions from prisoners in jails, is hereby declared a criminal offence.

Third-
degree
method a
criminal
offence.

45 of 1860. 3. Notwithstanding the provisions of the Indian Penal Code, 1860, Punish-
an offence under section 2 shall be punishable with imprisonment which ment,
may extend to five years.

STATEMENT OF OBJECTS AND REASONS

The use of third-degree methods for extorting confessions from prisoners particularly political prisoners was in vogue during the British rule in India. The inhuman and diabolic tortures of the British Police, known as third-degree methods, was their potent weapon of killing the patriotic and revolutionary fervour in the minds of the Indian freedom fighters. India achieved freedom because of the glowing sacrifice of her innumerable freedom fighters. So, the third-degree methods in police custody, which is an anachronism in a free society, should be abolished. Moreover, it is against the humanistic tradition of our great country and the ideals of Mahatma Gandhiji, the father of nation. It is high time that the Government should take steps to eliminate this evil and fulfilling their duties to political prisoners of the country.

Hence this Bill.

NEW DELHI;

SAUGATA ROY.

The 1st November, 1977,

BILL NO. 3 OF 1978

A Bill further to amend the Hindu Marriage Act, 1955

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 1978. Short title
and com-
mence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

25 of 1955

2. In section 13 of the Hindu Marriage Act, 1955, in sub-section (2), in clause (iv), for the word “eighteen”, the word “twenty-one” shall be substituted. Amend-
ment of
section 13.

STATEMENT OF OBJECTS AND REASONS

The Marriage Laws (Amendment) Act, 1976 is a progressive legislation in the matrimonial matters of the Hindus. Section 13(2) (iv) of the Hindu Marriage Act, 1955 has laid down a provision of much importance, namely, the provision relating to repudiation of marriage by a wife. This provision was enacted to restore the dignity of Hindu women who have been mostly passive participants in matrimonial matters. This provision would render matrimony a more meaningful union. This would go a long way to put down the practice of child marriages in the country. However, there is a scope for making the provision more simple and efficacious. To exercise the right to repudiate a marriage before the attainment of eighteen years means that there must be a guardian of the wife for acting on her behalf. This is bound to create practical difficulties for the wife to get the relief. Thus it would be proper to extend this period from eighteen years to twenty-one years. Indeed, she would be in a better position to exercise her judgement regarding her marriage. This amendment would go a long way to enhance the utility of the existing law.

Hence the Bill.

NEW DELHI;

O. P. TYAGI.

The 28th November, 1977.

BILL No. 7 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

Short
title
and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 217 of the Constitution, in clause (1),—

Amend-
ment of
article 217.

(a) for the words “the Chief Justice of the High Court”, the words “the Chief Justice and all the permanent Judges of the High Court” shall be substituted;

(b) the following *Explanation* shall be inserted at the end, namely:—

“*Explanation.*—For the purposes of this clause the consultation with ‘the Chief Justice and all the permanent Judges of the High Court’ means their unanimous opinion and in the case of difference, the majority opinion.”

STATEMENT OF OBJECTS AND REASONS

The practice prevailing at present is that only the Chief Justice of the High Court forwards the name of the person who is to be appointed as a Judge of the same High Court. This existing practice and the provision contained in article 217 cannot be considered as satisfactory as it does not afford opportunity for obtaining the view of the other Judges of the High Court. There is no justification for considering only the opinion of the Chief Justice and in ignoring the opinion of the other Judges. It would be in fitness of things if the opinion of all the permanent Judges of the High Court is obtained and recommendation by the Chief Justice of the High Court is done in accordance with the same. This would reduce the chances of overlooking objective consideration and would go a long way in forwarding the names of persons, who deserve such appointments purely on the basis of merit and calibre. Even the Law Commission in its report has testified that the existing provision for the appointment of High Court Judges is not satisfactory. With this object in view, the proposed amendment is necessary for ensuring that deserving persons are considered for high judicial appointments.

Hence the Bill.

NEW DELHI;

O. P. TYAGI.

The 28th November, 1977.

BILL NO. 12 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1978.

Short
title.

2. In article 19 of the Constitution,—

Amend-
ment of
article
19.

(i) after sub-clause (g) of clause (1), the following sub-clauses shall be inserted, namely:—

“(h) to employment;

(i) to strike;

(j) to recall the elected members of the House of the People and the Legislative Assemblies, of the States.”;

(ii) after clause (6), the following clause shall be inserted, namely:—

“(7) Nothing in sub-clauses (h), (i) and (j) shall prevent Parliament from making any law laying down the conditions under which these rights shall be available and prescribing the procedure for making available these rights.”.

STATEMENT OF OBJECTS AND REASONS

Article 19 of the Constitution confers certain rights on the citizens. After 30 years of Independence time has come that ambit of these rights should now be amplified and these rights extended to economic sphere. Hence the Bill seeks to amend Article 19 of the Constitution so as to include the right to employment and right to strike. Opportunity has also been taken to provide for the right to recall the elected Members of the House of the People and of the State Legislative Assemblies,

NEW DELHI;
The 6th December, 1977,

UGRASEN.

BILL NO. 6 OF 1978

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

Short
title and
commence-
ment.

(2) It shall come into force from the date on which it receives the assent of the President.

2. After article 23 of the Constitution, the following new articles shall be inserted, namely:—

Insertion
of new
articles
23A 23B,
etc.

“23A. (1) All citizens of India shall have the right to work and shall be entitled to adequate means of livelihood.

Right to
work and
unemploy-
ment
allowance.

(2) Failing to procure such work or means as referred to in sub-clause (1), every citizen shall be entitled to an unemployment allowance to be paid by the State.

Free and
Compul-
sory edu-
cation.

23B. (1) The State shall provide free education to all citizens.

(2) Education shall be compulsory for all children and youth until they have completed the age of 18 years.

Financial
assistance
to sick
and old.

23C. The State shall provide adequate financial assistance to every citizen in cases of sickness, old age (i.e. more than sixty years old) or disablement.

Financial
assistance
to
widows.

23D. The State shall provide financial assistance to widows.

Free
medical
Treatment.

23E. The State shall provide medical treatment and medicines free of charge to every citizen in the event of illness."

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution states among other things: "The State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood". Article 41 enjoins upon the State to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement.

But these rights are only in the nature of Directive Principles; hence these cannot be enforced. It is, therefore, necessary to make these rights Fundamental Rights and justiciable.

At present, it is not obligatory on States to enforce these Directive Principles. The Bill, therefore, seeks to give legal effect to these Directive Principles enshrined in the Constitution of India, which could not be enforced even after thirty years of our independence.

The Janata Party has made a commitment in their manifesto also to incorporate the right to work in the chapter on Fundamental Rights.

NEW DELHI.

SHARAD YADAV.

The 7th December, 1977.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to provide adequate means of livelihood failing which every citizen shall be entitled to an unemployment allowance. According to statistics, the number of job-seekers is 4 crores and an expenditure amounting to Rs. 80,000 crores will be involved in providing jobs to them.

On the other hand, an expenditure on unemployment allowance will come to Rs. 800 crores.

There are about 3.5 crore old persons in the country who have crossed the age of 60 years. The payment of old age pension to them will involve an expenditure of Rs. 350 crores. The number of the blind and physically handicapped people in the country is 9.20 crores. The expenditure over the assistance to be provided to them is estimated to be Rs. 920 crores.

An expenditure of Rs. 900 crores will be involved in grants by the Centre to the States for free education. The State will have to spend an amount of about Rs. 800 crores on the free medical treatment and free supply of medicines.

It is not possible at this stage to give precise details of total recurring and non-recurring expenditure involved and it will go on increasing progressively.

BILL NO. 4 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

Short
title and
Commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (3), after sub-clause (c), the following sub-clause shall be inserted, namely:—

Amendment of
article 124.

“(d) shall have a tenure of office for at least five years.”.

3. In article 217 of the Constitution, in clause (2), after sub-clause (c), the following sub-clause shall be inserted, namely:—

Amendment of
article
217.

“(d) shall have a tenure of office for at least five years.”.

STATEMENT OF OBJECTS AND REASONS

The Law Commission in its Fourteenth Report had recommended that appointments to the Supreme Court and the High Courts should be of persons who besides having the required qualification for such appointments should at least have a tenure of ten years. This was done so as to achieve and maintain a uniform interpretation of various enactments by the Judges. No one can dispute the advantage of this recommendation and it would go a long way in enforcing the rule of law. The Minister of State for Law on 7th May, 1973, stated in the Rajya Sabha that the Government had decided to accept the aforesaid recommendation of the Law Commission and a minimum five years tenure has been fixed for appointments to the Supreme Court and the High Courts. It is, therefore, necessary to introduce the consequential amendments in the Constitution on these lines so that in future no proposal for appointments to the Supreme Court and the High Courts of persons who are not in a position to put in five years tenure should be received or considered.

Hence the Bill.

NEW DELHI;

O. P. TYAGI.

The 15th December, 1977.

BILL NO. 9 OF 1978

A Bill to amend the Homoeopathy Central Council Act, 1973.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Homoeopathy Central Council (Amendment) Act, 1978.

Short
title.

59 of 1973.

2. In section 2 of the Homoeopathy Central Council Act, 1973, in subsection (1), for clause (d), the following clause shall be substituted, namely:—

Amend-
ment of
section
2.

‘(d) “Homoeopathy” means the system of medicine founded by Doctor Samuel Hahnemann.’

STATEMENT OF OBJECTS AND REASONS

The Bill seeks to provide the people of India with pure Homoeopathy in place of the degenerated medication being practised since British time.

On examining the Homoeopathy Central Council Act, 1973 and today's condition of Homoeopathic practice, it cannot be denied that a worst medication system than that prevailing in the pre-independence days is swelling fast in place of pure Homoeopathy. Instead of the single simple medicine in minimum dose of Homoeopathy, people of India are getting the following senseless poisons:

- (a) Antipathics, mixtures, complexes, injections, paptents, tonics, external ointments, appliances, eye-drops, syrups, etc.,
- (b) Mixtures of Homoeopathic medicines in contravention to the 'Organon of Medicine', and
- (c) Biochemic Medicines alongwith the Homoeopathic medicines.

This shows that the definition of 'Homoeopathy', as given in the Central Council Act, 1973, is incapable to get the system of Homoeopathy founded by Dr. Samuel Hahnemann implemented. As a matter of fact, the Homoeopathy Central Council Bill, 1971, which was introduced in Rajya Sabha on 1st December, 1971, contained the same definition of 'Homoeopathy' as is sought to be enacted by this Bill. That definition was later changed by the Select/Joint Committee on that Bill.

Hence the Bill.

NEW DELHI;
The 28th February, 1978.

LAXMINARAYAN PANDEYA.

BILL NO. 8 OF 1978

A Bill further to amend the Mines Act, 1952.

BE it enacted by Parliament in the Twentyninth Year of the Republic of India as follows:—

1. This Act may be called the Mines (Amendment) Act, 1978.

35 of 1952.

2. In section 3 of the Mines Act, 1952, in sub-section (1), in the proviso to clause (b), for part (ii), the following part shall be substituted, namely:—

Amend-
ment of
section 3.

“(ii) where it is an open cast working,—

(a) the depth of the excavation measured from its highest to its lowest point nowhere exceeds six metres or, in the case of an excavation for hard stone, fifteen metres;

(b) the number of persons employed on any one day does not exceed hundred; and

(c) explosives are not used in connection with the excavation.”

STATEMENT OF OBJECTS AND REASONS

The Mines Act, 1952, as modified up to the 1st August, 1975, applied to every and all sorts of mines including the open cast quarries. All over the country the open cast mines and quarries are by and large small units employing persons on daily wages as per their need. Some of the provisions of the principal Act require all mines to have costly administrative set up, heavy liabilities and responsibilities. In the case of underground mines, like coal, gold etc., the main operations take place below the surface of the ground, but for small stone quarries and open cast mines these provisions become a financial burden and many times it is beyond capacity. Due to these provisions many of the small stone quarries and open cast mines are closing down or running in loss due to heavy administrative charges. The recent trend in the country, such as in Maharashtra, these small quarries and open cast mines are run by workers' cooperatives who find it difficult to fulfil all the regulations of the principal Act. The quantum of danger to the workers is minimum in the case of small mines and open cast quarries. To remedy these hardships and prevent the closure of such small or cooperative quarry ventures the proposed amendment is very essential.

Hence this Bill.

NEW DELHI;
The 19th December, 1977.

VASANT KUMAR PANDIT.

AVTAR SINGH RIKHY,
Secretary.